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10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF ARIZONA

12 The Pinal Creek Group, et al.,  
13 Plaintiffs,

CIV 91-1764 PHX DAE (LOA)

*LOA*  
~~PROPOSED~~ ORDER

14 vs.

15 Newmont Mining Corp., et al.,  
16 Defendants.

17  
18 Pursuant to the Stipulation between Plaintiff BHP Copper Inc. ("BHP"), and  
19 Defendant CanadianOxy Offshore Production Company ("COOPCO"), and good cause  
20 appearing:

21 IT IS ORDERED as follows:

22 1. The claims of BHP for Property B source remediation asserted in the  
23 Fourth Amended Complaint against COOPCO premised upon COOPCO's alleged  
24 liability as an "owner," "operator," and/or "arranger" of facilities at the Pinal Creek  
25 Drainage Basin under the Comprehensive Environmental Response, Compensation and  
26 Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 9601 *et seq.*; Arizona's Water Quality  
27 Assurance Revolving Fund ("WQARF"), A.R.S. §§ 49-281 *et seq.*; and/or the Uniform  
28 Contribution Among Tortfeasors Act ("UCATA"), A.R.S. § 12-2501 *et seq.*, are

1 dismissed, without prejudice, with each party to bear its own costs and fees incurred to  
2 date in connection with the prosecution or defense of such claims.

3 2. BHP and COOPCO have executed an Alternative Dispute Resolution  
4 Agreement ("ADR Agreement") which provides for a binding ADR process as an  
5 alternative forum rather than the Phase II trial to resolve BHP's Property B source  
6 remediation claims against COOPCO.

7 3. This Order does not impact or modify BHP's continuing right to pursue  
8 BHP's groundwater remediation claims against COOPCO in the Phase II trial.

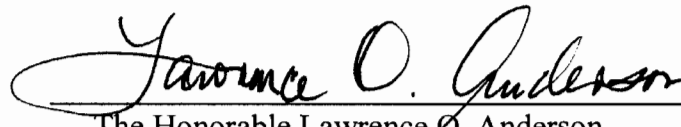
9 4. Accordingly, BHP and COOPCO have deferred resolution of BHP's  
10 Property B source remediation claims against COOPCO premised on COOPCO's  
11 alleged liability as "owner," "operator," and/or "arranger" of facilities at the Pinal Creek  
12 Drainage Basin until after the Phase II trial. Any defense of limitations, laches, repose,  
13 or other defense premised on the passage of time shall be tolled pending the final  
14 resolution of such claims of BHP against COOPCO.

15 5. This Order does not effect a settlement or release of BHP's  
16 CERCLA/WQARF claims against COOPCO as asserted by BHP in the Fourth Amended  
17 Complaint.

18 6. This Order does not prevent BHP from recovering Property B source  
19 remediation response costs from COOPCO by means of the alternative dispute  
20 resolution procedures in the ADR Agreement.

21 7. This Order shall not increase, decrease, or modify the claims, defenses,  
22 rights and/or obligations of the parties hereto other than as expressly stated herein.

23 Dated: this 12<sup>th</sup> day of April, 2006.

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25   
26 The Honorable Lawrence O. Anderson  
27 United States Magistrate Judge  
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